



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF HUMAN SERVICES  
OFFICE OF CHILDREN AND ADULT LICENSING



MARIANNE UDOW  
DIRECTOR

Dear Adult Foster Care or Home for the Aged Applicant:

New background check requirements were signed into law and were **effective April 1, 2006**. Michigan Public Acts 28 and 29 of 2006 expands the requirements for criminal background checks for new employees of home for the aged and adult foster care facilities. Amendments to Act 218 for adult foster care homes or Act 368 for homes for the aged are included in this packet to reflect these changes.

Licensees of these facilities shall not employ, independently contract with, or grant clinical privileges (homes for the aged only) to individuals who has ongoing direct access to or provides direct services to residents until the facility conducts a criminal history background check.

Because there are now criminal penalties for knowingly and willfully not complying with the new background requirements on all new hires with direct access to residents, it is vital you become familiar with these new requirements.

Once licensed, you will be mailed the necessary codes needed to access the web-based application to conduct background checks. The licensee who is the holder of these codes can assign additional user codes as needed. If you do not have Internet access, analysts from the Background Check Unit will assist you with completing this process.

Enclosed you will find a listing of training sessions scheduled across the state that we encourage you to attend. You must prior register and pay for these trainings. This listing will continue to be updated and may be accessed on the Adult Foster Care Licensing website at [www.michigan.gov/dhs](http://www.michigan.gov/dhs) or the Michigan Long Term Care Partnership website at [www.miltcpartnership.org](http://www.miltcpartnership.org).


Also included in this packet are the following for your review:

- A copy of the Amendment that adds the new requirements (Please review thoroughly.)
- A list of frequently asked questions with answers.
- A handout introducing the new Mich Long Term Care Partnership website (Please visit this website regularly for background check updates.)
- An Identix brochure explaining where/how fingerprints will be processed (Please visit their website at [www.identix.com/iis](http://www.identix.com/iis).)

To comply with the background checks requirements and have federal funds pay for the process, all background checks are required to be processed through the Michigan Long Term Care Partnership website and fingerprints completed by Identix.

After reviewing all the information contained in this packet, you are strongly urged to attend one of the offered training sessions. For further information, visit the Michigan Long Term Care Partnership web site at [www.miltcpartnership.org](http://www.miltcpartnership.org). Currently available at the web site, if you click on Tutorial, you will find a background check user manual with detailed step-by-step instructions on how to use the web-based application to conduct background checks. In addition, you may direct questions or concerns by emailing us at [ocalcheck@michigan.gov](mailto:ocalcheck@michigan.gov) or call 1-877-718-5542.

Sincerely,

A handwritten signature in black ink that reads "Deborah J. Wood". The signature is written in a cursive style with a large, stylized 'D' and 'W'.

Deborah J. Wood, Division Director  
Division of Adult Foster Care & Home for the Aged Licensing  
Office of Children and Adult Licensing

Michigan New Long Term Care Background Check  
Questions and Answers

- 1) Do I have to check everybody who applies for a position?

**ANSWER: No, only employees who have a good faith offer of employment.**

- 2) Who are the persons who are affected by this law?

**ANSWER: Employees, independent contractors, and those with clinical privileges who regularly have access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information. This legislation does not apply to family members or volunteers who are not employees with direct access to residents. However, if a family member or volunteer is paid for their services, they should be considered an employee.**

**Those with clinical privileges do not apply to adult foster care facilities. Additionally, this legislation does not apply to adult foster care adult household members, who are not employees with direct access to residents. Adult Foster Care adult household members' "Good Moral Character" will continue to be cleared through our present system.**

- 3) Does the new legislation apply to licensees that have direct access to residents?

**ANSWER: Yes. If the licensee is a legal entity and not an individual such as a corporation, and the corporation appoints a person to act on their behalf, such as a licensee designee or authorized representative, that person would need to have a background check if they have regular access to patients/residents, or to patient's/resident's property, financial information, medical records, treatment information, or any other identifying information. However, if the licensee were an individual and not an employee of the licensee, then this legislation would not apply to them, and for AFC licensees only OCAL's current "Good Moral Character" process will continue.**

- 4) What does "direct access" mean?"

**ANSWER: By law direct access "means access to a patient or resident or to a patient's or resident's property, financial information, medical records, treatment information, or any other identifying information."**

- 5) Is it necessary to have to run a new background checks if the person was previously employed by another Long Term Care or AFC facility and is just transferring to ours?

**ANSWER: Yes all new employees to your facility who meet the definition in #2 must be checked.**

6) What is required from me to gather from the person in order to use the system?

**ANSWER: Name, including middle name and previously used names, gender, ethnicity, social security number, date of birth, employment applicant's complete mailing address, drivers license or state ID # and state issued, indication if applicant is a health professional or CNA.**

7) What if the person does not have a driver's license or state identification, what are some alternative pieces of identifications can be used?

**ANSWER: Photo ID is required to access Identix.**

8) Do I have to run a background check on temporary contracted workers who are only used to complete certain specific tasks like fix the plumbing at the facility?

**ANSWER: No, an individual who is an independent contractor with a a facility does not need a check if the services for which he or she is contracted are not directly related to the provision of services to a patient or resident or if the services for which he or she is contracted do allow for direct access to the patients or residents but are not performed on an ongoing basis. This exception includes, but is not limited to, independent contractors who provide utility, maintenance, construction, or communications.**

9) How often must I run a background check on the same person?

**ANSWER: A background check must be conducted only at the time of hire.**

10) Do I, as the employer have to run a background check on all employees at my facility? If not, who is exempted from the process?

**ANSWER: You only have to do checks on new hires.**

11) Can I hire somebody conditionally, pending the completion of the background checks process?

**ANSWER: Yes, as long as the individual signs a statement in writing that indicates there are no disqualifying offenses on their record. However, if this statement is proven false they will be terminated and may be subject to criminal penalties.**

12) If I do not have Internet access, how can I utilize the Long-term Care background check system?

**ANSWER: Licensees who do not have Internet access should contact their local library and see if the library offers Internet access to the public. If Internet access is not available at local libraries, licensees will be able to contact Department staff via a toll-free number to access the system.**

13) If I get an error or a question, whom can I ask for help to assist me in the process?

**ANSWER: A toll-free number will be available to assist licensees with the process.**

14) Where does the employer get the forms required to get employees live-scan fingerprint clearances completed by Identix?

**ANSWER: The employer will be able to print off the required form when accessing Michigan's Long-term Care Background Check website.**

15) How do I know if a person shows up as having a prohibitive offense on the fingerprint process?

**ANSWER: You will receive notification from the Department of the results of the fingerprint check.**

16) If a person committed a crime in a nursing home, why does that make them ineligible to work in adult foster care facility?

**ANSWER: The new legislation requires that if they show up on the federal exclusionary registry on the Long-term Care Background Check website, they are permanently excluded from long-term care employment.**

17) Is one of the registries the sex offender registry?

**ANSWER: Yes.**

18) Can I be held personally liable, if an error was discovered on a database used to determine that the person is excluded from employment in the LTC field in Michigan?

**ANSWER: No.**

19) How do I know what crimes are excluded from the law?

**ANSWER: The only excluded crimes are misdemeanors that do not involve abuse, neglect, assault, battery, criminal sexual conduct, fraud, theft, or drugs.**

20) What about if an employee committed a crime but it is not one of the listed crimes?

**ANSWER: If it is not a crime that disqualifies them from employment by this legislation, then they could be hired if the employer otherwise determines the person appropriate.**

21) Does the Long-term Care Background Check website include Children's Protective Services or Office of Recipient Rights registries?

**ANSWER: No, Children's Protective Services registries are confidential by law. A licensee may check with the Office of Recipient Rights for violations but it is not required by this legislation.**

22) Is there an appeal process?

**ANSWER: Yes, but only for those who believe their background check results are inaccurate, or their offenses may be eligible to be expunged or set-aside. Confirmation will be provided in writing for persons who have had their background check information corrected.**

23) Will the new background check system decrease the number of errors currently received from ICHAT?

**ANSWER: Even with this new system there remains a chance for error when using ICHAT. However, a fingerprint clearance can be used to confirm information received.**

24) If a person has no prohibitive offenses, must I hire them?

**ANSWER: No, the employer continues to have the ultimate authority to hire who they choose even if the person has no prohibitive offenses.**

25) Who is covered under the grandfather clause in the new law?

**ANSWER: Any person who was employed on or before March 31, 2006 and has not been convicted of a subsequent crime. No employee is grand fathered into the law if they have been convicted of a crime described in 42 USC 1320A-7 (federal exclusionary registry) or have a substantiated finding of abuse, neglect, or misappropriation of property. A person also retains their grandfathered status as long as they continue to work for the same employer, even if they change facilities and a new background check is not required.**

26) Does an employee lose their grandfathering if they were convicted of abuse or neglect in a nursing home?

**ANSWER: Beginning the effective date of the new amendment to the act, April 1, 2006 a person would remain grandfathered if they were grandfathered under the old requirements, as long as they do not re-offend, and as long as they are not on the federal exclusionary registry.**

27) Do grandfathered employees ever have to have their fingerprints taken?

**ANSWER: Yes, within 24 months of April 1, 2006 all grandfathered employees must be fingerprinted. If they have not re-offended since the effective date of the statute, they will retain their grandfathering. However, they no longer retain their grandfathering status if they re-offend or if they change employers.**

28) Who pays for the background checks?

**ANSWER: As long as the employer completes the background check on the state's Long-Term Care Background Check website, and has fingerprints processed through Identix, the statute requires that neither the employer nor the employee be charged for the background checks. However, if employers have previously used ICHAT they must use their new user ID or they will get charged if they use their old ID.**

29) How much does a live-scan fingerprint check cost if it were not paid for by the state?

**ANSWER: Approximately \$70. \$54 is a fixed fee for the MSP and the FBI to process the clearance. Identix charges a fee of \$16 for their services.**

30) Must I use Identix for the processing of fingerprints?

**ANSWER: Yes, the MSP have contracted with Identix to provide this service.**

31) How far will prospective employees drive to access Identix?

**ANSWER: Not more than 50 miles, but much less in urban areas.**

32) Where are mobile units typically stationed?

**ANSWER: They are typically set-up in intermediate school districts and motels.**

33) How long does it take to have the fingerprints processed?

**ANSWER: 2-3 business days, excluding weekends, according to Identix.**

34) What if the fingerprints are rejected; will it take longer to get them processed?

**ANSWER: The live-scan print machine used by Identix immediately notifies its operator if the print needs to be re-done while the employee is still present.**

35) Can an employer call to find out if a perspective employee was a no-show at the fingerprint site?

**ANSWER: Yes, the licensee can call Identix to see if the perspective employee showed up for their appointment.**

36) How long does it take the FBI to run the prints and send them back to the MSP?

**ANSWER: If the employee has no criminal record, a “no hit” notification will be sent to the licensee within 10-14 days. However, if the employee has a criminal record the FBI will send the results to the Department. The Department will in turn send a letter to the employer and the employee conveying the findings. Because we have no volume projections, processing time for persons with criminal hits is not known.**

37) What verification should I maintain in my employee records documenting that I have complied with the new requirements?

**ANSWER: All employees will have signed a form indicating the following: They have not been convicted of any of the crimes that would disqualify them from employment; agreeing to have a background check conducted; acknowledging that if the background check doesn't verify their statement this would be grounds for termination and could also be a misdemeanor offense; a statement that they are aware that they must report any future arraignments or convictions to the licensee; and that they have been informed of their appeal rights.**

**The licensee would also need to maintain a copy of the live-scan fingerprint form as evidence that the clearance has been requested.**

**If the employee has no criminal background the facility will receive a “no-hit” notification from the MSP.**

**If the prospective employee had an FBI hit there would be a copy of the department's notification in the employee's file.**

38) If an employer is not completing the required background checks, who will enforce this?

**ANSWER: If an employer “knowingly and willfully fails to conduct the criminal history checks as required under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.” Therefore, it is the responsibility of the Departments with the authority to enforce these applicable acts to assure compliance with all requirements or take action as appropriate.**

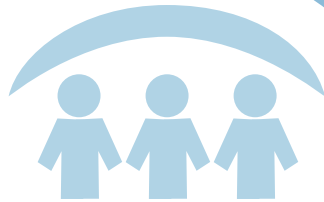


39) Does the new legislation include background checks on Department licensing staff?

**ANSWER: No, not at the current time. But, the legislation does include a provision that this issue be studied and a report sent to the legislature within one year after the effective date.**

40) Is there going to be a new sample conditional employment and subsequent arrest or crime reporting form?

**ANSWER: Yes, a new form is being developed to incorporate the new requirements.**



## OUR MISSION

To promote and protect the health & safety of Michigan's vulnerable population by creating a system to assist in determining suitability of employment of prospective employees, independent contractors, or individuals seeking clinical privileges for positions of employment in long term care settings.



Michigan P.A. 26, 27, 28 and 29 of 2006 has expanded the applicability of background checks to include all individuals who regularly have direct access to or provide direct services to patients or residents in a health facility or agency, or adult foster care facility, as defined below.

- Nursing homes
- County medical care facilities
- Hospices
- Hospitals that provide swing bed services
- Home health agencies
- Homes for the aged
- Adult foster care facilities
- Psychiatric hospitals
- Intermediate care facilities for people with mental retardation

*There is no cost to employers or employees for long-term care workforce background checks.*

*The State acknowledges the involvement of and support of collaborating partners, the long term care community, advocates and other stakeholders.*

# LONG TERM CARE WORKFORCE BACKGROUND CHECK PROCESS

## STEP 1: CONSENT & GOOD FAITH OFFER OF EMPLOYMENT

The Applicant:

Receives a good faith offer of employment, an independent contract, or clinical privileges

- Consents, in writing, to a background check
- Agrees to provide fingerprints for a criminal history check
- Discloses that he or she has no disqualifying criminal history;

## STEP 2: CHECK REGISTRIES

### Employers with Internet Access:

Check registries via website:  
[www.miltcpartnership.org](http://www.miltcpartnership.org)

### Employers without Internet Access:

If you are licensed by the Department of Human Services, call 1-877-718-5542 -or-

If you are licensed by the Department of Community Health, call 1-877-718-5547



## WAS DISQUALIFYING INFORMATION FOUND?

**NO - Continue to Step 3**

**YES - Process ends**

## STEP 3: INITIATE A FINGERPRINT CHECK

- The applicant will be given a Fingerprint Request Form for Indentix. Indentix will scan the applicant's fingerprints electronically and submit them to the Michigan State Police.
- Michigan State Police will conduct a State and Federal criminal history records check.

## STEP 4: SUMMARIES SENT

Any criminal findings will be sent to the licensing department, who will summarize the findings and notify both the provider and applicant.

## HIRING DECISION

The employer makes the final hiring decision based on the results of background check process.

**For further information and answers to frequently asked questions go to: [www.miltcpartnership.org](http://www.miltcpartnership.org)**